LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

(ISSN: 2583-7753)

Volume 1 | Issue 4

2024

© 2024 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com
Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal LegalResearch has decided to publish this submission as part of the publication.

In case of **any suggestions or complaints**, kindly contact info.lijdlr@gmail.com

To submit your Manuscript for Publication in the **LawFoyer International Journal of DoctrinalLegal Research,** To submit your Manuscript Click here

REVENGE PORNOGRAPHY – SOCIO-LEGAL IMPACT

Animesh Nagvanshi[1] & Vivek Kumar[2]

I. ABSTRACT

The development of the internet in the 21st century has ushered in the era of digitalization because social media has been so beneficial for individuals and businesses. Also, this has exposed the negative aspects of the internet. Digital technologies are now widely used in bothdaily living and daily crimes. Cybercrimes are criminal offences that take place in the realm of digital technologies and cyberspace. One such offence is known as "revenge pornography[3]," which refers to the publication and dissemination of photos with other people's sexual material without their agreement on various public venues, digital channels, and websites. Modern television and video technologies have produced pornographic programmes and channels. These offenders make bad use of technologically based inventions and software to facilitate domestic violence, dating abuse, cyberstalking, and child sexual exploitation. It is disrespectful because the internet has created prospects for technological and virtual closeness. These sexual subgenres and sexual media on internet platforms have multiplied in unprecedented ways.

II. KEYWORDS

Porn, crime, society, remedy, criminal, revenge

III. INTRODUCTION

Revenge pornography involves stalking and involves the misuse of a person's personal information. It concerns the unauthorized dissemination of sexually explicit photos and

films. It's typically only linked with women; however, this is untrue, and other genders have also fallen victim to it. It is when someone's nude or semi-naked images

[1] BA.LLB (Hons), 4th Year, VIIth Semester Student at The ICFAI University, Dehradun
[2] Professor at The ICFAI University, Dehradun
[3] John R Ville, Revenge Pornography, The First Amendment Encyclopaedia (https://www.mtsu.edu/first-amendment/article/1532/revenge) (Last Visited on 19th October)

© 2024. LawFoyer International Journal of Doctrinal Legal Research (ISSN: 2583-7753)

or videos are postedonline or on social media without that person's consent. One might do this to coerce someone into engaging in sexual activity, to maintain a relationship, or even as a kind of punishment for a variety of offences. A subtype of cyberstalking, revenge pornography is a type ofcybercrime.[4]

Either the person the victim sent their private images to or the hacker can carry out this typeof job. In these scenarios, a hacker gains access to all the personal information on the user's mobile device. The victim may be approached for payment on occasion, or in some cases, a video or photo of the incident may be posted online. Blackmail can also be used to force someone to comply with demands for money or physical items.

A. DIFFERENCE BETWEEN PORNOGRAPHY AND REVENGE PORNOGRAPHY

The main distinction between pornography[5] and revenge pornography is that although pornographic content is created to be posted on social media, revenge pornographic content involves the release of the victim's film without their knowledge orconsent. The most significant distinction is that while party consent is present in pornography, victim consent is not present in revenge pornography, which is realistic andhighly intimate. Pornography mainly involves the consent of the person whose video or photo is being used as pornographic material for commercial purposes whereas the other hand, revenge pornography involves no consent as uploads private photos or videos of one individual with the aim or motive of downgrading his or her image in the society.

IV. IMPORTANCE OF CATEGORIZING REVENGE PORNOGRAPHY

The crime of revenge porn violates the right to privacy, yet despite this, it hasn't been designated as such in any Indian statute and is of little significance. The nature and

[4] International Journal of Cyber Criminology Criminal (Sep. 9, 2022) (https://www.cybercrimejournal.com/pdf/MihaSepecVol13Issue2IJCC2019) (Last Visited on 8th December)

[5] Rachit Garg, *Is watching porn a crime in India: an insight* - iPleaders, (Jan. 3, 2022), https://blog.ipleaders.in/is-watching-porn-a-crime-in-india-an-insight/. (Last Visited on 19th October)

importance of the relevant protected asset are communicated by classifying the act as aspecific crime. As a result, it must be regarded as a crime.

The harm done to the social value on which revenge porn is founded must thus be representedby classifying it as an offence. Hence, categorizing revenge porn as a violation of merely one's right to privacy would suggest that the defendant had not physically harmed the victim but rather had only invaded the women's personal. It is considered necessary to classify it as acrime as a result.

A. REASON BEHIND REVENGE PORNOGRAPHY

Reasons for revenge pornography are numerous but some of the most dominant factors are-

- **Retaliation or Vengeance:** Following a split or falling out, it's often motivated by a desire for vengeance against a previous relationship. The one disclosing the private information might be doing it out of revenge or to hurt someone else's feelings.
- **Control and Power:** Sharing private photos with someone you don't want them to see may be a means of controlling or controlling them. It's a strategy for controlling and subduing the victim.
- **Embarrassment and Humiliation:** Some people want to make fun of or humiliate the person who is shown in the pictures or videos. They may take pleasure in making the victim feel bad about themselves or in tarnishing their reputation.
- **Erroneous Ownership Concepts:** When someone shares material, they may think they own or control the pictures or videos, ignoring the autonomy and rights of the people they represent.
- **Lack of Empathy or Understanding:** Some people may not realise how harmful spreading such stuff can be or how serious their acts are. They could not have empathy or be aware of how the victim's life is affected.
- **Peer pressure or social dynamics:** A person may act in this way to fit in or get the acceptance of specific groups due to social pressure or influence

from peers or online communities.

- **Financial Gain:** Occasionally, someone will take advantage of private information for their financial advantage, either by using it as a tool for blackmail or by making money from the websites that hold it.

V. "REVENGE PORN" AS A VIOLATION OF "RIGHT TO PRIVACY"

A domestic regime's foundation has been considered as privacy. As a result of technological improvements that have opened new opportunities for privacy invasion, privacy-related issues are currently a hot topic of discussion in society. Between oneself and society, privacyis a thin line. Assumed to be the protection of personal data that has been published through cyber means, privacy is the structural underpinning that has been featured in the online sphere. Because it reassures users that their personal information and data won't be made available to the public on online platforms or to unauthorized individuals, internet privacy is crucial from an economic perspective.

This form of privacy invasion puts society's and the economy's interests at risk. The protection of one's private space and the capacity to exert control over one's own life are bothmade possible by one's right to privacy. There are many different forms of online abuse, but revenge porn is the most current and pervasive. The disclosure of another person's personal information without that person's permission with the intention of embarrassing, irritating, or upsetting them is referred to as revenge porn. The term "revenge porn" refers to the disclosure of another person's personal information without that person's permission with the aim of embarrassing, agitating, or upsetting them. Both a sexual offence and a privacy infraction have been assigned to revenge porn. The preservation of an individual's autonomy, well-being, andright to self-realization are all included within the scope of the right to privacy.

By sexually shaming, belittling, and degrading the victim, it breaches their dignity. Victims can go undiscovered because they believe that doing so will damage their reputation in society. It might be said that revenge porn victims describe a comparable

experience to that of rape. Additionally, it diminishes the victim's identity, violating the victim's moralstanding and dignity.

The right to privacy is regarded as a human right and a fundamental right, with the idea that everyone deserves to enjoy all types of privacy. The Indian Constitution's Article 21[6] protects the right to privacy and identifies it as a fundamental freedom. Furthermore, it violates the right to privacy when intimate photographs, private recordings, and videos that are demeaning to someone's reputation or dignity in the eyes of society are distributed.

B. IMPACT OF REVENGE PORNOGRAPHY ON SOCIETY AND LAW

The crime of revenge abuse not only harms the individual victim but also has negative implications for society. Any social failure to respect women's capacity for consent will further legitimize violence against them in all its manifestations. However, minimizing the damages of online abuse and creating a narrative that could normalize such heinous behaviour by characterizing female sexual abuse as merely "hypersensitivity" or "humorlessness" of females are signs of victim-blaming. As a result, such cultural narratives will indoctrinate society's members into a culture where violations of women's sexual autonomy and privacy will eventually be accepted.

This will suppress women's voices and make them invisible in both the real and virtual worlds, as has already been stated. So, the psychological damage caused by online sexualabuse doesn't just harm the victims; it also deprives societies of a public discourse that is more varied in its points of view and reflective of the equality of all people in all facets oftheir human existence.

In the age of the internet, releasing the victim's private movies or images can put emotionalstress on the victim and be the cause of strained social relationships and social isolation. Everyone has access to the internet, making it very simple to view pornography. The risk tomental health is high. Although there is no explicit statute against revenge pornography in India, the offence is nevertheless punishable under

[6] Indian Constitution, art 21.

multiple sections of IPC and IT Act penalties. Sections 66E[7], 67[8],and 67A[9] of the IT Act.

VI. OPTIONS OF REDRESSAL

- **Legal Responses: Criminal and Civil**

By educating people about the acts (criminal or civil) that are prohibited by the law to preventharm or detriment to others, the law plays a crucial role in controlling the behavior of persons. Furthermore, societal disapproval for a particular behaviour is reflected in the prescription ofthat behaviour. A person's right to a dignified existence and personal liberty can therefore be protected by the law from unjustified interference.

- **Criminal Remedies -**

"Revenge porn" is now prohibited in several countries throughout the world. The Philippineswas the first country to outlaw such behaviour in 2009. In reaction to this issue, the uninviteddistribution of personal photographs was made illegal in some countries. Also, several offenders as well as website owners who facilitate the publication of revenge porn have been successfully prosecuted under this new legislation. There is no explicit law in India that defines "revenge porn," although the accused may betried under several sections of the IPC and the IT Act. The following Section of the IPC that will be attracted includes Section 292[10] (Sale etc., of obscene material); Section 354C[11] (Voyeurism); Section 499[12] (Defamation); and Section 509[13](Word, gesture or act intended to insult the modesty of a woman).

Under the IT Act following Sections will be attracted: Section 66E (Punishment for the violation of privacy); Section 67[14] (Punishment for publishing or transmitting of obscene material in electronic form); Section 67A[15] (Punishment for publishing or

[7] The Information Technology Act, 2000, s 66E, No 21, Act of Parliament
[8] The Information Technology Act, 2000, s 67, No. 21, Act of Parliament
[9] The Information Technology Act, 2000, s 67A, No. 21, Act of Parliament
[10] The Indian Penal Code, 1860, s 292, No. 45, Act of Imperial Legislative Council
[11] The Indian Penal Code, 1860, s 354C, No. 45, Act of Imperial Legislative Assembly
[12] The Indian Penal Code,1860, s 499, No. 45, Act of Imperial Legislative Assembly
[13] The Indian Penal Code, 1860, s 509, No. 45, Act of Imperial Legislative Assembly
[14] The Information Technology Act, 2000, s 67, No. 21, Act of Parliament
[15] The Information Technology Act, 2000, s 67A, No. 21, Act of Parliament

transmitting ofmaterial containing the sexually explicit act, etc., in electronic form); and Section 72[16] (Penalty for breach of confidentiality and privacy). Consequently, criminalizing such sexual assault will provide accountability for offences that seriously violate people's right to a dignified existence, paving the road for victims to receivesome sort of remedy and justice.

- **Civil Remedies –**

Civil law has been used by victims and survivors of image-based sexual assault to pursue justice. Victims have allegedly gained control over their situation because of lawsuits filed under common law or statutory civil law. Victims of "revenge porn" have invoked copyrightlegislation to obtain redress.

VII. CASE LAWS

- **State of West Bengal vs. Animesh Boxi[17]**

Animesh Boxi was found guilty by the Judicial Magistrate of Taluk District Court in West Bengal of posting personal pictures and films of his ex-girlfriend on a pornographic website,and he has been imposed a 5-year prison sentence and a Rs. 9000 fine.

- **Subhranshu Rout v. State of Odisha[18]**

The couple was the victim. And time, the offender went to the victim's house when she washome alone, abused her, recorded the terrible episode, and then threatened her to make the situation go away. The video and photographs were posted on Facebook after the victim informed her spouse about the assault. The judge denied his bail.

VIII. RECOMMENDATIONS FOR COMBATING REVENGE PORNOGRAPHY

Revenge pornography has the potential to severely harm or endanger a person's life. So, it isimportant to be aware of the ways to prevent pornographic retaliation. Hence, there are two ways to approach prevention: personally, or individually, and legally.

[16] The Information Technology Act, 2000, s 72, No. 21, Act of Parliament
[17] State of West Bengal v Animesh Boxi, C.R.M. No. 11806 of 2017, GR/1587/2017
[18] Subhranshu Rout v. State of Odisha, BLAPL No 4592 of 2020

You should always exercise extreme caution if you want to avoid such on a personal level. You should also check whether there are hidden cameras before staying outside. Be cautiouswhen forming relationships and friendships. Never transmit or take naked images of anyone.Take caution when using your mobile devices and gallery. Your images and movies shouldbe uncrackable. Remember your passwords and only use trustworthy apps.

Use extra caution while making physical contact with someone because intimate photos or movies could damage your reputation, your career, or even your life. Hence, it's crucial to be constantly conscious of your environment and the people around you. To protect oneself fromsuch attacks, you must always maintain your privacy. The users who are in the videos should have given their consent before the content is released, according to pornographic websites. It's likewise prohibited by law, and as a result, no one dares to commit this crime.

The cybercell should have a dedicated squad that handles these cases, and there should also be a separate hotline to assist those who have fallen victim to revenge pornography. All genders should be treated equally and impartially by the laws that are enacted. Make sure your web presence is legitimate by thoroughly checking it. Hence, regardless of gender, these are the preventive actions that everyone should immediately adopt.

IX. CONCLUSION

The pain is intense and occasionally never ends. Nonetheless, it's crucial to avoid technologically deterministic viewpoints and keep in account the human agents who use digital and social media platforms when trying to explain modern abuse. Revenge pornography is a growing crime that is made easier by social media and mobile technology; itis a crime committed by people, and one to which the police must respond appropriately. Only a small part of the daily online sexual harassment takes place in the form of revenge porn.

It poses a significant and growing threat to victims' physical and onlinereputations. Even if the horror is imposed on the victims via mouse clicks, they nonetheless endure great bodily suffering because of it. Never give anyone access to your photos or

videos. We must also provide a safe environment for people who have been injured by this, in addition to a strong legal framework. We should keep our devices updated, password-protected, and secure instead. Whenever such an incident occurs, the victim should file a complaint right away so that the video or photo can be taken down from the internet as soon as possible. In India, all pornographic websites ought to be prohibited. To address such a heinous violation of human dignity, a comprehensive strategy must be developed that considers both the coercive force oflaw and non-legal redressal possibilities.

To provide victims of revenge porn with justice, their unalienable right to a dignified existence must be upheld. Personal autonomy and privacy are intrinsically tied to personhood; hence, they can't be violated without repercussions or with approval in any conscious society, whether through image-based sexual assault or any other means. The Supreme Court of India stated the following in K S Puttaswamy v. Union of India[19]" Privacy postulates the reservation of a private space for the individual, defined as the rightto be left alone.

The idea is based on people's right to self-determination. The core of the human personality is the capacity for choice. The idea of privacy gives the individual the power to establish and manage the human aspect, which is inextricably linked to their personality. The capacity to make decisions on issues directly affecting human life exemplifies the indestructible essence of the human psyche. Individual autonomy is linked totopics that can be kept private. There is a valid expectation of privacy about these issues.

X. REFERENCES

1. *Revenge Pornography: A Socio-Legal Impacts,* https://www.legalserviceindia.com/legal/article-8992-revenge-pornography-a-socio- legal-impacts.html.
2. *Revenge Pornography,* https://www.legalserviceindia.com/legal/article-2179-revenge-pornography.html.

3. *Revenge Porn or Non-Consensual Pornography,* https://www.indialawoffices.com/legal-articles/revenge-porn-or-non-consensual-pornography.

4. Avanti Bose, *Revenge Pornography: harms associated with it and options of redressal - iPleaders,* IPleaders (Nov. 25, 2021), https://blog.ipleaders.in/revenge-pornography-harms-associated-with-it-and-options-of-redressal/.

5. *www.researchgate.net*,https://www.researchgate.net/publication/308398590_Revenge_Pornography_Mental _Health_Implications_and_Related_Legislation.

6. Smith PK, *Revenge Pornography: Mental Health Implications and Related Legislation,* PubMed https://pubmed.ncbi.nlm.nih.gov/27644870/.

7. Har-Manpreet Kaur, *Dimensions of Revenge Porn – Scaring People for Lives,* KnowLaw (Dec. 17, 2021), https://knowlaw.in/index.php/2021/12/17/dimensions-of-revenge-porn-scaring-people-for-lives/.

8. *A Systematic Insight on the Concept of Revenge Pornography: and Protecting Laws,* (June 8, 2021), https://www.sbhambriadvocates.com/post/a-systematic-insight-on-the-concept-of-revenge-pornography-and-protecting-laws.

9. John R Vile, *Revenge Pornography*, The First Amendment Encyclopaedia https://www.mtsu.edu/first-amendment/article/1532/revenge-pornography.

10. (Mar. 3, 2018), https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-3/.